

[NOTES FOR DISCUSSION]

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 12-16 are currently being prosecuted. Claims 12 and 16 are amended. Claim 12 is independent. The Examiner is respectfully requested to reconsider her rejections in view of the amendments and remarks set forth herein.

Reasons for Entry of Amendments

Entry of the present Amendment is respectfully requested in view of the fact that the changes herein automatically place the application in condition for allowance.

In the alternative, if the Examiner does not agree that this application is in condition for allowance, it is respectfully requested that the present Amendment be entered for the purpose of appeal. This Amendment was not presented at an earlier date in view of the fact that Applicants did not fully appreciate the Examiner's position until the final Office Action was reviewed.

Rejection under 35 U.S.C. §103(a)

Claims 12-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mayfield (U.S. 5,928,692) in view of Mally et al. (U.S. 4,832,970) and Nakajima (U.S. 4,670,276). This rejection is respectfully traversed.

While not conceding the appropriateness of the rejection, but merely to advance prosecution of the present application, independent claim 12 is amended to recite a laminated cheese food having a combination of elements, including an upper side of the intermediate layer being in direct contact with and inherently bonding with one of the two external layers.

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and a lower side of the intermediate layer being in direct contact with and inherently bonding with another of the two external layers, thus forming the multilayer structure which is releasable from adjoining multilayer structures.

It is respectfully submitted that the combination of elements set forth in independent claim 12 is not disclosed or made obvious by the prior art of record., including Mayfield, Mally et al., and Nakajima.

As disclosed on page 21, lines 2-4, of the specification, the inventors used a releasable platy food containing cheese in the external layers (A), (B). Each external layer (A), (B) directly contacts (see Fig. 7) and is inherently releasable from adjoining external layers on one side, but is bonded to an intermediate layer on the other side. This capability is made possible as a result of the inherent properties of the layers (A), (B), and (C). In other words, no coating need be sprayed on layers (A), (B) for them to be releasable from other layers (A), (B). In addition, as disclosed on page 21, lines 17-19, of the specification, "In the single or plurality of intermediate layers (C), a platy food material having integrity to the external layers (A), (B) and if necessary, the integrity among the intermediate layers (C) ... is used". In other words, the platy shaped intermediate layers are inherently capable of bonding to each other and to external layers. This configuration of layers (A), (B), and (C) is shown in FIG. 7.

The Office Action asserts that (1) the claimed product of the present application does not exclude the edible film disclosed by Mayfield, and (2) that the application of the film will

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not prevent bonding of the intermediate layer with the external layers. Applicants respectfully disagree.

Regarding point (1), as noted above, claim 12 is amended herein to recite an upper side of the intermediate layer being in direct contact with and inherently bonding with one of the two external layers, and a lower side of the intermediate layer being in direct contact with and inherently bonding with another of the two external layers. With the edible film of Mayfield, direct contact between the intermediate layer and external layers is impossible.

Regarding point (2), it seems to Applicants that the Office Action is contradicted by Mayfield, column 4, lines 62-65, which discloses, " If the food product 10 is a sticky substance... then the edible film 20 prevents the product from sticking with the storage medium in which it is placed...", and Mayfield, column 7, lines 28-31, which discloses, "The edible film 48 allows one to handle the amorphous, semi-solid food without contact with the amorphous, semi-solid food, which may be sticky and messy".

Since Mayfield discloses that the express purpose of the edible films 20 and 48 are to prevent the food substance from sticking to other items with which it comes in contact, the Applicant fails to understand how the Examiner can conclude that application of film allows bonding the Mayfield food substance to the external layers. If the edible film prevents bonding of the Mayfield food substance with a storage item in which it is placed and if the edible film prevents sticking of the Mayfield food substance to human fingers, how can it be

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concluded that the edible film would take on opposite characteristics when coming into contact with other materials, such as a slice of bread?

Regarding the Mally et al. and Nakajima patents, these documents fail to make up for the deficiencies of Mayfield.

As such, it is respectfully submitted that the combination of elements set forth in independent claim 12 is not disclosed or made obvious by the prior art of record, including Mayfield, Mally et al. and Nakajima. Reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a) are, therefore, respectfully requested. It is believed that independent claim 12 is in condition for allowance and that dependent claims 13-16 are also allowable due to their dependence on allowable claim 12, as well as for the additional novel limitations contained therein. Thus, all claims of the present application should be deemed allowable.

CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, she is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 205-8000.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By

A handwritten signature, which appears to be the word "DRAFT", is enclosed within a hand-drawn oval. The signature is written in dark ink on a light background.

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Attachment
JMS:CTT:rk

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MARKED-UP COPY OF AMENDED CLAIMS 12 and 16

12. (Three Times Amended) A laminated cheese food produced by platy food materials being piled to form a multilayer structure having at least three layers, comprising:

two external layers of platy food material containing cheese, and having inherent releasability from external layers of adjoining laminated cheese foods when piled; and

an intermediate layer of platy food material, wherein the intermediate layer may be formed of a plurality of intermediate layers of platy food material which inherently bond together, the intermediate layer being disposed between and being inherently capable of bonding to the two external layers of platy food material, such that an upper side of the intermediate layer is in direct contact with and inherently bonds with one of the two external layers, and a lower side of the intermediate layer is in direct contact with and inherently bonds with another of the two external layers, thus forming the multilayer structure which is releasable from adjoining multilayer structures.

13. The laminated cheese food according to Claim 12, wherein the platy food material in the intermediate layer is cheese different from the cheese contained in the platy food material in the external layers in type or colour tone, or is cheese having higher maturity, more water or fat, thus being softer, or having lower pH, than the cheese contained in the platy food materials in the external layers.

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14. The laminated cheese food according to Claim 12, wherein the platy food materials in the intermediate layer contain foods other than cheese which are in a liquid, paste, powdery, solid, or fibrous state.

15. The laminated cheese food according to Claim 12, wherein:
the platy food materials in at least one of the external layers or the intermediate layer contain additives or raw materials for adjusting colour tone, and
the colour tones of the platy food materials in the external layers or the intermediate layer are the same or different.

16. (Amended) A laminated cheese food package produced by at least two of the laminated cheese foods according to Claim 12 being piled and wrapped, wherein outer sides of the external layers of each of the at least two laminated cheese foods make direct contact with outer sides of external layers of adjoining ones of the at least two laminated cheese foods.